

REGISTER



South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., August 30, 2010

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Public Safety: South Dakota 911 Coordination Board: (August 24, 2010) intends to adopt a rule to establish alternative compliance methods for the requirement contained in ARSD 50:02:04:02 which requires all public safety answering points to be staffed with two 9-1-1 telecommunicators on duty at all times. The general authority for this rule, as cited by the department, is SDCL 34-45-18.2.

A public hearing will be held in Room 412 of the Capitol Building, 500 E. Capitol Avenue, Pierre, South Dakota, on September 30, 2010, at 10:00 a.m. Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota Department of Public Safety, 118 West Capitol, Pierre, South Dakota 57501. The proposed rule is also available online at <http://www.oem.sd.gov/Preparedness/911.htm>. Material sent by mail must reach the Department of Public Safety by October 10, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-2691 at least 48 hours before the hearing.

Department of Education: South Dakota Professional Administrators Practices and Standards Commission: (August 26, 2010) intends to amend a rule to allow the Professional Administrators Practices and Standards Commission to address ethical violations occurring three years prior to the filing of a

complaint. The general authority for this rule, as cited by the department, is SDCL 13-43-48 to 13-43-50.

A public hearing will be held in the McKay Building, 800 Governors Drive, Pierre, South Dakota, on October 14, 2010, at 9:00 a.m. CST. Copies of the proposed rule may be obtained from and written comments sent to the Professional Administrators Practices and Standards Commission, 700 Governors Drive, Pierre, South Dakota 57501. Written comments must be received by the commission by October 8, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3553 at least forty-eight hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Stan E. Anderson, Wall, was reappointed on August 23, 2010, to the **Board of Tourism**, effective immediately and shall continue until June 30, 2014.

Gerard A. Baker, Rapid City, was appointed on August 23, 2010, to the **Board of Tourism**, to replace Donna Rae Petersen, effective August 20, 2010, and shall continue until June 30, 2014.

John Brockelsby, Rapid City, was reappointed on August 23, 2010, to the **Board of Tourism**, effective immediately and shall continue until June 30, 2014.

George Kessler, Mina, was reappointed on August 23, 2010, to the **Board of Tourism**, effective immediately and shall continue until June 30, 2014.

Alicia Y. Alvarez, Sioux Falls, was appointed on August 24, 2010, to the **South Dakota Crime Victims' Compensation Commission**, to replace Judith Hines, effective August 17, 2010, and shall continue until June 30, 2011.

Sgt. Loren McManus, Sioux Falls, was appointed on August 24, 2010, to the **South Dakota Crime Victims' Compensation Commission**, to replace Captain David DeJabet,

effective August 23, 2010, and shall continue until June 30, 2013.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

9-2-2010	Human Services: Division of Developmental Disabilities	Amend ICR/MR rules to change individual to person supported or supported person throughout the article, ensure the article is applicable to any facility that qualifies as an intermediate care facility for persons with mental retardation (ICR/MR), clarify what comprehensive functional assessments are needed versus evaluations, clarify when an individual support team must meet, clarify the responsibilities of a qualified mental retardation professional, remove language from the rule on time-out rooms due to their redundancy, clarify who may prescribe psychotropic medication other than a physician, change terminology throughout from strategies to behavior treatment plan, repeal the requirement to notify the parent or legal guardian at least quarterly of the status of the individual support plan, clarify who may discontinue medications other than the physician, add a new chapter that addresses those issues only applicable to a private ICF/MR not otherwise covered in the existing article including: the provision of an on-site review for the completion of an inspection of a minimum of five percent of the persons supported, a requirement to submit a plan to the division for approval of any new construction or remodeling; a requirement that no more than eight people may reside in any
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		<p>home managed by the private ICR/MR after January 1, 2011, a requirement that the division may visit at any time without notice and the requirement that the private ICR/MR must grant access to the division, requirements on completing an inventory for client and agency planning to determine the supported person's functional limitations, an additional listing of rights that should be afforded to the supported person, a requirement that rights be limited to protection of the supported person or others, to provide specific services or supports and to promote the least restrictive alternative, and a requirement that the supported person, parent or guardian, be made aware of the appeal process, requirement to develop and implement a restoration plan any time rights are limited; requirement that the facility develop a policy on abuse neglect, exploitation or injury of unknown source and procedures for notifying the appropriate entities, a requirement to ensure that any allegations of abuse, neglect, exploitation or injury of unknown source is investigated by the ICR/MR or other officials pursuant to state law, a requirement to give verbal notice the next working day of any critical incident, what constitutes a critical incident and a requirement to submit a critical incident report using the division's on-line system within seven calendar days, a requirement to demonstrate how the supported person's preferences are identified and prioritized during the individual support plan development, a requirement to develop a transition plan within 180 days from the date of admission, to review that plan annually, and to provide the supported person, parent or guardian, with a list of home and community based services and the community support providers; 37 SDR 17.</p>
9-10-2010	Revenue and Regulation: Property and Special Taxes	<p>Amend Property and Special Taxes rules to update manuals to current version, ensure all Certified Appraiser Assessors receive updated training in the ethical requirements for their job, allow companies to compete in providing the cost manuals that are used to assess real property, update real estate abstract classes and remove NA-Z and NA-Z1 classes due to the</p>

		<p>repeal of NA-Z statutes and change to productivity valuation of agricultural land, change rules due to a change in law relating to the calculation of NA-Z properties and productivity valuation of agricultural land, remove a cross-reference due to a change in the law, allow for the uniform assessment of agricultural land limited in use because of a permanent easement, contract with School and Public Lands, or certain ordinances, allow retailers to sell any size bottle of alcohol, and make certain rules that pertain to malt beverages more consistent with similar rules that affect all other alcoholic beverages; 37 SDR 34.</p>
9-14-2010	Agriculture: Division of Agricultural Services	Amend a rule to decrease the raw milk assessment fee; 37 SDR 29.
9-15-2010	Revenue and Regulation: Commission on Gaming	<p>Amend Racing rules to eliminate the requirement that the paddock judge inspect the horses' shoes and that horses wear head numbers when racing, clarify the procedure used when a race horse owner changes trainers, establish that a jockey fee is earned at the time the jockey enters the paddock for the race, establish that the fee paid to a jockey available to ride the race but who has been removed at the election of the owner or trainer equals the fee paid to the jockey who actually rides the horse, allow acceptance of race entries for races when the original or photocopy of the horse's registration papers are not on file at entry time, clarify that a race track may require identifying tattoos on all horses on the track, allow the use of furosemide (lasix) in race horses when placed on the bleeder list, clarify the requirements and procedures for administering furosemide (lasix) to horses, correct an inconsistency with ARSD 20:04:27:13.09, reflect current wagering equipment capabilities, allow for superfecta wagering at horse races in South Dakota, and correct an inconsistency with ARSD 20:04:33:26(8); and amend Gaming rules to allow for a variation of play for blackjack called Blackjack Switch, allow for a variation of poker known as Ultimate Texas Hold 'em Progressive, allow for a variation of poker known as Caribbean Stud Poker</p>

		Progressive, allow for variations of poker known as Four-Card Poker Progressive and Crazy 4 Poker Progressive, allow for a variation of poker known as Let It Ride Progressive, allow for a variation of poker known as Mississippi Stud Progressive, allow for a variation of poker known as Texas Hold 'em Bonus Poker Progressive, clarify procedures used in casino management of progressive slot machine meter sign reconciliation and underpayments to patrons, promulgate application for licensure and reporting requirements for a new category of licenses known as gaming property owners licenses, allow the Commission to require additional persons to be licensed when organizations hold gaming property owners licenses, and clarify that organizations holding gaming property owners licenses be considered persons for purposes of laws that restrict a person from holding more than three retail gaming licenses; 37 SDR 33.
9-15-2010	Environment and Natural Resources: Environmental Services	Adopt rules to implement South Dakota's Regional Haze Program for the two Class I areas (Badlands and Wind Cave National Parks); 37 SDR 34.
9-15-2010	Bureau of Personnel: Career Service Commission	Amend a rule to add two additional categories of leave related to military leave to the list of reasons for which eligible employees may take family and medical leave; 37 SDR 34.
9-28-2010	Education: Board of Education	Amend rules to provide valid and reliable testing procedures for any school district choosing to write their own end-of-course exams; 37 SDR 35.
9-30-2010	Public Safety: South Dakota 911 Coordination Board	Adopt a rule to establish alternative compliance methods for the requirement contained in ARSD 50:02:04:02 which requires all public safety answering points to be staffed with two 9-1-1 telecommunicators on duty at all times; 37 SDR 41.
10-14-2010	Education: Professional Administrators Practices and Standards Commission	Amend a rule to allow the Professional Administrators Practices and Standards Commission to address ethical violations occurring three years prior to the filing of a complaint; 37 SDR 41.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 31, 2010, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron – DOT, 901 Dakota St.; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – DOT, 2300 Eglin St.; Sioux Falls – University Center, 2205 Career Ave., Room 282 S, and Yankton – DOT 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2010 interim: September 28, November 17, and December 20.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.